

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

LUIS ALEJANDRO GARZA,  
Plaintiff,

v.

UNITED STATES OF AMERICA,  
Defendant.

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Civil Action No. B-02-154

**DEFENDANT'S OBJECTIONS TO CERTAIN  
PLAINTIFF'S EXHIBITS**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, United States of America, objects to the admission of Plaintiff's Exhibits 4, 5, 6, 7, 8, 9, 10, 13, 14, and 15 because they violate the hearsay rule. *Federal Rules of Evidence, Rule 801*. In support of these objections, the Defendant submits the following:

1. On September 13, 2006, Plaintiff submitted his witness and exhibit list. At that time, Plaintiff listed, among others, Damoine Brock, Sergio Diaz, Jose Luis Guzman-Posos, L.D. Richardson, George Hayes, Corey Williams, Robert Alford and John Gomez as witnesses who would be testifying at trial.
2. On November 27, 2006, Plaintiff's counsel advised the undersigned that these individuals would not be called as witnesses at trial. See *Govt's Ex. 1*.
3. As a consequence, the exhibits at issue-which represent statements attributed to these witnesses-should not be admitted because, standing alone, they constitute hearsay. By allowing the admission of these exhibits without making available the alleged declarant, deprives the Defendant of its right to cross examine the witnesses.
4. Defendant is cognizant that the Court requires that such objections be made at least

three days prior to trial. However, Defendant would ask that since counsel for the Defendant did not learn exactly who Plaintiff actually intended to have testify at trial until November 27, 2006, that Defendant be allowed to raise these objections at this time. Defendant submits that it is attempting to resolve this issue with opposing counsel, but has thus far not been able to discuss the issue with him. *Id.*

WHEREFORE PREMISES CONSIDERED, Defendant prays that this Court issue an Order sustaining Defendant's objections to the admission of Plaintiff's Exhibit Numbers 4, 5, 6, 7, 8, 9, 10, 13, 14, and 15 because they violate the hearsay rule.

Respectfully submitted,

DONALD J. DeGABRIELLE, JR.  
United States Attorney

**/s/ Nancy L. Masso**  
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**STATEMENT CERTIFYING ATTEMPT TO RESOLVE OBJECTION**

I certify that I have attempted to resolve this matter with opposing counsel. Unfortunately, I was not able to communicate with opposing counsel prior to filing these objections.

November 28, 2006

*/s/Nancy L. Masso*  
NANCY L. MASSO  
Assistant U. S. Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the true and foregoing "Defendant's Objections to Certain Plaintiff's Exhibits" was faxed and e-mailed on this the 28th day of November, 2006 via Certified Mail, Return Receipt Requested to Barry R. Benton, Attorney at Law, 284 Ebony Avenue, Brownsville, TX 78520, and forwarded to Barry Benton electronically at Barry57@sbcglobal.net.

**/s/Nancy L. Masso**  
NANCY L. MASSO  
Assistant United States Attorney